

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS LIABILITY
LITIGATION

THIS DOCUMENT RELATES TO:
All Actions

MDL No. 2419
Master Docket No.: 1:13-md-2419-RWZ

Honorable Rya W. Zobel

**PLAINTIFFS' STEERING COMMITTEE'S MOTION FOR ENTRY OF CASE
MANAGEMENT ORDER SETTING AN EXPEDITED TRIAL DATE**

The Plaintiffs' Steering Committee ("PSC") moves this Honorable Court for entry of the enclosed case management order which is intended to set a schedule to try, in a single trial, six (6) civil actions against the Saint Thomas Outpatient Neurosurgical Center, Dr. John Culclasure, Debra Schamberg, R.N., Saint Thomas Health, Saint Thomas Network, and Saint Thomas Hospital West f/k/a Saint Thomas Hospital (collectively the "Saint Thomas Defendants") beginning on December 4, 2015.

The six cases proposed to be tried are as follows:

1. *Reed v. Ameridose*, et al, 1:13-cv-12565
2. *Wray v. Ameridose*, et al, 1:13-cv-12737
3. *Ziegler v. Ameridose*, et al, 1:13-cv-12588
4. *McElwee v. Ameridose*, et al, 1:13-cv-12625
5. *Rybinski v. Ameridose*, et al, 1:13-cv-12818
6. *Sullivan v. Ameridose*, et al, 1:13-cv-12781

These six cases (collectively the "Proposed Trial Cases") involve a mixture of plaintiffs including those who have died (*Reed* and *Rybinski*) or have confirmed cases of meningitis or other

paraspinal infection (*Wray, Ziegler, McElwee, Sullivan*).

The proposed schedule, set against the current schedule created by MDL Order No. 9 is as follows:

	MDL Order No. 9 Schedule	New Trial Schedule
Deadline for Saint Thomas defendants to inform Court of position on <i>Lexicon</i>	N/A	April 1, 2015
Close of Fact Discovery	June 15, 2015	June 15, 2015
Initial Expert Disclosures	July 15, 2015	July 1, 2015
Rebuttal Expert Disclosures	August 14, 2015	August 1, 2015
Deadline For Expert Depositions	October 13, 2015	September 1, 2015
Dispositive Motions and <i>Daubert</i> Motions	N/A	September 15, 2015
Oppositions to Dispositive Motions and <i>Daubert</i> Motions	N/A	September 30, 2015
Replies in Support of Dispositive Motions and <i>Daubert</i> Motions	N/A	October 7, 2015
Hearing on Dispositive Motions and <i>Daubert</i> Motions		November 1, 2015
Final Pre-Trial Hearing	N/A	November 15, 2015
Trial	N/A	December 4, 2015

As can be seen from the above chart, the proposed expedited trial schedule is largely consistent with the timing of the current schedule from MDL Order No. 9. The PSC proposes that all other deadlines in MDL Order No. 9 remain the same but that the above trial schedule be set for the Proposed Trial Cases only.

In support of this Motion, the PSC relies upon the contemporaneously filed Memorandum in Support and the documents and pleadings cited therein.

A proposed Order is attached hereto.

March 6, 2015

Respectfully submitted,

/s/ J. Gerard Stranch, IV

J. Gerard Stranch, IV
Benjamin A. Gastel
BRANSTETTER, STRANCH & JENNINGS
PLLC
227 Second Avenue North
Nashville, TN 37201
Telephone: (615) 254-8801
Facsimile: (615) 255-5419
gerards@branstetterlaw.com
beng@branstetterlaw.com

*Plaintiffs' Steering Committee and Tennessee
State Chair*

Thomas M. Sobol
Kristen Johnson Parker
HAGENS BERMAN SOBOL SHAPIRO LLP
55 Cambridge Parkway, Suite 301
Cambridge, MA 02142
Telephone: (617) 482-3700
Facsimile: (617) 482-3003
tom@hbsslaw.com
kristenjp@hbsslaw.com

Plaintiffs' Lead Counsel

Elizabeth J. Cabraser
Mark P. Chalos
Annika K. Martin
LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP
150 Fourth Avenue North, Suite 1650
Nashville, TN 37219-2417
Telephone: 615.313.9000
Facsimile: 615.313.9965
ecabraser@lchb.com
mchalos@lchb.com
akmartin@lchb.com

Federal/State Liaison

Marc E. Lipton
LIPTON LAW
18930 W. 10 Mile Road
Southfield, MI 48075
Telephone: (248) 557-1688
Facsimile: (248) 557-6344
marc@liptonlawcenter.com

Kim Dougherty
JANET, JENNER & SUGGS, LLC
31 St. James Avenue, Suite 365
Boston, MA 02116
Telephone: (617) 933-1265
kdougherty@myadvocates.com

Patrick T. Fennell
CRANDALL & KATT
366 Elm Avenue, S.W.
Roanoke, VA 24016
Telephone: (540) 342-2000
pfennel@crandalllaw.com

Mark Zamora
ZAMORA FIRM
6 Concourse Way, 22nd Floor
Atlanta, GA 30328
Telephone: (404) 451-7781
Facsimile: (404) 506-9223
marc@markzamora.com

Plaintiffs' Steering Committee

LOCAL RULES 7.1 AND 37.1 STATEMENT

The undersigned hereby certifies that Plaintiffs' counsel have conferred with counsel for the defendants and have attempted, in good faith, to resolve or narrow the issues raised by this Motion but were unable to do so. The undersigned further certifies that the PSC followed the provisions of Local Rule 37.1 prior to filing the instant motion as explained in greater detail in the contemporaneously filed memorandum of law in support of this motion.

/s/ J. Gerard Stranch, IV
J. Gerard Stranch, IV

CERTIFICATE OF SERVICE

I, J. Gerard Stranch, IV, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: March 6, 2015

/s/ J. Gerard Stranch, IV
J. Gerard Stranch, IV